



## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/623,631	07/22/2003	Thomas James Hardman JR.	

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 Rockville, MD 20853

CONFIRMATION NO. 2317  
 FORMALITIES  
 LETTER

Date Mailed: 07/12/2007

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*

**Items Required To Avoid Abandonment:**

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- Only a single copy of each compact disc was submitted. Applicant is required to submit: (1) a replacement compact disc and a duplicate copy of the replacement compact disc that are labeled "COPY 1 REPLACEMENT" and "COPY 2 REPLACEMENT", respectively, with the creation date, in compliance with 37 CFR 1.52(e); (2) a statement that the two compact discs are identical, in compliance with 37 CFR 1.52(e)(4); and (3) a statement that the compact disc contains no new matter (see 37 CFR 1.52(e)(4)).
- Applicant submitted a compact disc in this application, but failed to provide a transmittal letter that lists for each compact disc, the machine format, the operating system compatibility, a list of files contained on the compact disc including their names, sizes in bytes, and dates of creation, plus any other special information that is necessary to identify, maintain, and interpret the information on the compact disc as required by 37 CFR 1.52(e)(3). Additionally, the compact disc is not identified in the specification with a listing of all of the files contained on the compact disc as required by 37 CFR 1.52(e)(5). Applicant is required to submit a transmittal letter in compliance with 37 CFR 1.52(e)(3)(ii) and an amendment to the specification listing all of the files on the compact disc with the file names, dates of creation and file sizes consistent with the directory of the compact disc in compliance with 37 CFR 1.52(e).
- Applicant submitted a compact disc, but the information contained on the compact disc is not one of the types of information that may be submitted on compact disc. See 37 CFR 1.52(e). Applicant is required to file an amendment to add the information that is on the compact disc to the paper portion of the specification and cancel any reference and identification of the compact disc in the specification. Such an amendment cannot add any new matter under 35 U.S.C. 132(a).

The following item(s) appear to have been **omitted** from the application:

- The compact disc submitted with the application and the duplicate copy of the compact disc are unreadable. This includes bad media, viruses, and unknown or corrupted file format.

**I. Petition for date of deposit:** Should applicant contend that the above-noted omitted item(s) was in fact

deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$400.00 petition fee (37 CFR 1.17(f))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO. **THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b).**

**II. Petition for later filing date:** Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$400.00 petition fee (37 CFR 1.17(f))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice. **THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b).**

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(f)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted item(s) and the petition (and petition fee) requesting the later filing date.

**III. Acceptance of application as deposited:** Applicant may accept the application as deposited in the USPTO by filing an appropriate amendment as set forth in either (A) or (B) below within **TWO MONTHS** of the date of this Notice. **THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** The application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

**(A)** If applicant wants to accept the application as deposited without adding the subject matter that was in the omitted item (e.g., a missing page or figure), applicant is required to submit one or more of the following items without adding any new matter (see 35 U.S.C. 132(a)):

1. For a missing page of the specification, a substitute specification including claims that amends the specification to renumber the pages consecutively and cancels any incomplete sentences, and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125;
2. For a missing figure of the drawings, replacement drawing sheets in compliance with 37 CFR 1.121(d) to renumber the drawing figures consecutively (if necessary), a substitute specification excluding claims that amends the specification to cancel any references to any omitted drawing(s) and corrects the references in the specification to the drawing figures to correspond with any relabeled drawing figures, and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125;
3. For a missing page of the claim listing only, a replacement claim listing with the claims renumbered consecutively or, if amendment to the claims is also necessary, then a complete claim listing in compliance with 37 CFR 1.121(c);
4. For a missing or unreadable compact disc, a substitute specification (excluding the claims) deleting the reference to the compact disc and the files contained on the compact disc, and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125; and
5. For a missing or unreadable file submitted on a compact disc, (a) a substitute specification (excluding the claims) deleting the reference to the missing or unreadable file, and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125; and (b) a replacement transmittal letter listing all of the files except the missing or unreadable file in compliance with 37 CFR 1.52(e)(3)(ii).

**(B)** Alternatively, if applicant wants to accept the application as deposited but wishes to add the subject matter in the omitted item (e.g., a missing page or figure) by relying on an incorporation by reference under 37 CFR 1.57 or other portions of the original disclosure, applicant is required to submit one or more of the following items without adding any new matter (see 35 U.S.C. 132(a)):

1. To add the subject matter in a missing page of specification, a substitute specification excluding claims and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125;
2. To add a missing figure of the drawings, new and replacement drawing sheets in compliance with 37 CFR 1.121(d);
3. To add the subject matter in a missing page of the claim listing, a complete claim listing in compliance with 37 CFR 1.121(c) (e.g., a claim in the missing page should be submitted as a new claim);
4. To add the subject matter in a missing or unreadable compact disc, (a) a replacement compact disc and a

duplicate copy of the compact disc, in compliance with 37 CFR 1.52(e); and (b) a statement that the replacement compact disc contains no new matter in compliance with 37 CFR 1.52(e)(4); and,  
5. To add the subject matter in a missing or unreadable file submitted on a compact disc, (a) a replacement compact disc that contains all of the files listed in the specification including the missing or unreadable file and a duplicate copy of the compact disc, in compliance with 37 CFR 1.52(e); and (b) a statement that the replacement compact disc contains no new matter in compliance with 37 CFR 1.52(e)(4).

If applicant is relying on an incorporation by reference under 37 CFR 1.57 to add the omitted subject matter, then applicant must also comply with the requirements of 37 CFR 1.57.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

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*If you are not using EFS-Web to submit your reply, you must include a copy of this notice.*

T-C -  
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199  
PART 3 - OFFICE COPY